

RESPONSE TO EX PARTE QUAYLE
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REMARKS

In the Office Action, the Examiner noted that claims 1-26 are pending in the application, that the application is in condition for allowance except for formal matters, and that prosecution as to the merits is closed in accordance with practice under Ex parte Quayle. In particular, the Examiner allowed claims 1-26 and objected to the drawings under 37 CFR 1.83(a), the title, and claims 1, 6, 10, 16, 19, and 23. In view of the following discussion, the Applicants believe the application is now in allowable form.

OBJECTIONS

I. Specification

The Examiner suggested that a more "specific title" be used. The Applicants believe the current title is specific enough to differentiate this invention from other similar inventions. This invention, as claimed, is specifically about completing a backup job that was interrupted. Adding language to the title regarding "objects" and "catalogs" as suggested by the Examiner is misleading as to the nature of the invention. The Applicants recommend the title not be amended to best describe the invention. The Applicants respectfully request the objection to the title be withdrawn.

II. Drawings

The Examiner has objected to the drawings for not showing a "processor", "memory", "job", "first list of volumes", "catalog", "object", and "second list of volumes". Upon review of the claims, the Applicants deem the terms "processor" and "memory" to be unnecessary. Specifically, the elements (e.g., processor and memory) that perform the functions of the client computer and backup system are irrelevant to understanding the invention as claimed. As such, the processor and memory have been canceled from the claims. Thus, the Applicants respectfully request the objection based on the terms "processor" and "memory" be withdrawn.

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The MPEP states "[a]ny structural detail that is of sufficient importance to be described should be shown in the drawing." See, *MPEP 608.02(d), Ex parte Good*, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911) With respect to "job", "first list of volumes", "catalog", "object", and "second list of volumes", these are not structural details essential for a proper understanding of the disclosed invention. These are abstract conceptual elements that are not easily conveyed by a drawing. Drawings constitute an adequate description if they describe what is claimed and convey to those of skill in the art that the patentee actually invented what is claimed. See, *Modine Mfg. Co. v. U.S. Int'l Trade Comm'n*, 75 F.3d 1545-1556 A person of ordinary skill in the art would understand the drawings disclose the same as the claims of the invention. As discussed below, the Applicants believe that each of these abstract concepts are fully described in the specification such that showing these concepts in a figure is not necessary nor practical. The Applicant respectfully requests the objection to the drawings be withdrawn.

A "job" is fully discussed in detail in the specification at paragraph 17. A "job" may be a request to backup or restore a client computer in accordance with one embodiment of the invention. Each backup job generally includes information regarding the volumes to be backed up and the scheduled run time, all of which are typically stored in the job database. The job database (i.e., the element that physically stores "job" information) is clearly shown in Figure 2, and the specification is clear that the job database contains the "job" information. The Applicants do not believe drawing a "job" is practical or necessary to understand the invention. Therefore, Applicants respectfully request the need to show the "job" in the drawings be withdrawn.

A "catalog" is fully discussed in detail in the specification at paragraph 30. Paragraph 30 states that the catalog server creates a permanent disk based catalog. The catalog server is shown in Figure 2, and the specification is clear that the catalog server contains catalogs. The Applicants do not believe drawing a "catalog" is practical or necessary to understand the invention. Therefore, Applicants respectfully request the need to show the "catalog" in the drawings be withdrawn.

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An "object" is fully discussed in detail in the specification at paragraphs 16, 20, 26-27 and 32-36 of the specification. The specification states that an object includes files (leaf objects) and directories (container objects) of drives on the client computers. The "objects" are stored on storage devices which are shown in Figure 1 as connected to the backup system. Thus, the specification defines an "object" and states where the "object" is located. The Applicants do not believe drawing an "object" is practical or necessary to understand the invention. Therefore, Applicants respectfully request the need to show the "object" in the drawings be withdrawn.

III. Claims

The Examiner has objected to Claim 1. Claim 1 has been amended in accordance with the Examiner's recommendation by adding the word "the" between "from" and "one" to indicate that these volumes are the same as the previously mentioned volumes. Therefore, Applicant respectfully requests the objection be withdrawn.

The Examiner has objected to claim 6. Claim 6 has been amended to:

6. The method of claim 1, wherein using the interrupted job to build the list of volumes comprises:
building the list of volumes associated with the job that was interrupted during the backup process; and
removing from the list of volumes associated with the interrupted job a list of volumes that had been completely backed up.
(emphasis added)

The proper antecedent basis for "the list of volumes" is now present in claim 6. Therefore, Applicant respectfully requests the objection be withdrawn.

The Examiner has objected to claim 10. Claim 10 has been amended in accordance with the Examiner's recommendation by adding the word "the" between "from" and "one" to indicate that these volumes are the same as the previously mentioned volumes. Therefore, Applicant respectfully requests the objection be withdrawn.

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The Examiner has objected to claim 16. The Applicant notes that claim 16 includes only four lines and does not include the language cited by the Examiner. Therefore, Applicant respectfully requests the objection be withdrawn.

The Examiner has objected to claim 19. Claim 19 has been amended in accordance with the Examiner's recommendation by adding the word "the" between "from" and "one" to indicate that these volumes are the same as the previously mentioned volumes. Therefore, Applicant respectfully requests the objection be withdrawn.

The Examiner has objected to claim 23. Claim 23 has been amended in accordance with the Examiner's recommendation by adding the word "second before" "the list of volumes". Therefore, Applicant respectfully requests the objection be withdrawn.

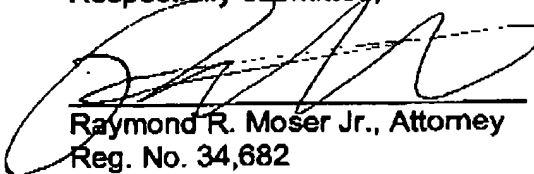
CONCLUSION

Thus, the Applicants submit that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issuance are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the maintenance of any formal objection in accordance with Ex parte Quayle, it is requested that the Examiner telephone Mr. Raymond R. Moser, Jr., Esq. at (732) 935-7100 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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